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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
FIRST APPELLATE DISTRICT  
DIVISION THREE

In re E.T., a Person Coming Under the  
Juvenile Court Law.

THE PEOPLE,

Plaintiff and Respondent,

v.

E.T.,

Defendant and Appellant.

A155774

(Alameda County  
Super. Ct. No. JV02017312)

In March 2017, while 17-year-old appellant E.T. was a ward of the court and on probation, the Alameda County District Attorney filed a new wardship petition (Welf. & Inst. Code, § 602<sup>1</sup>), alleging that in February 2017 appellant had conspired to commit murder with known street gang members with the intent to promote the gang (Pen. Code, §§ 182, subd. (a)(1), 187, subd. (a), 186.22, subd. (b)(5))(two counts)). Thereafter, on April 9, 2018, the Alameda County District Attorney filed a first amended wardship petition, realleging the conspiracy counts and gang enhancements, and adding a new count that appellant, now 18 years old, had also been an accessory after the fact to an assault with a deadly weapon committed by another named person in February 2017. (Pen. Code, §§ 32, 245, subd. (a)(1)).

<sup>1</sup> All further unspecified statutory references are to the Welfare and Institutions Code.

On April 10, 2018<sup>2</sup>, one day after the filing of the amended wardship petition, the court conducted a pretrial hearing and sustained the accessory after the fact allegation based on appellant's admission; the court dismissed the remaining allegations in the petition. Following a disposition hearing in May, the court continued appellant's wardship, removed him from his mother's home, placed him in the custody of the probation department, and approved his placement in a juvenile camp. Appellant thereafter escaped from the juvenile camp. Four days later, on June 12, the Alameda County District Attorney filed a supplemental wardship petition (§ 777, subd. (a)), charging appellant with violating his probation by escaping from the juvenile camp. A warrant was issued for appellant's arrest and he was subsequently arrested and detained in county jail on June 26.

Two days later, on June 28, appellant and his counsel appeared in court at a detention hearing. The court advised appellant of his rights, he admitted the probation violation, and the court found the allegation, as admitted, was true. A disposition hearing was scheduled for July 13 and the court continued appellant's detention in county jail. The probation department filed a report with the court recommending that the matter be continued for 90 days, during which time appellant would remain in county jail and participate in a rehabilitative program, followed by termination of probation, a successful dismissal of the wardship, and his release from custody. Appellant opposed his continued detention in county jail and asked to be transferred to juvenile hall. At the July 13 disposition hearing, the probation department changed its recommendation and concurred with appellant's request for his transfer to juvenile hall. The court ordered appellant's transfer to juvenile hall and the disposition hearing was continued and ultimately scheduled for September 4.

On August 31, five days before the scheduled disposition hearing, the court held a hearing to consider the probation department's request to transfer appellant back to county jail pending disposition. Appellant asked to remain in juvenile hall, testifying on

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<sup>2</sup> All further dates occurred in 2018.

his own behalf as to his circumstances while he had been housed in county jail (17 days) and juvenile hall (seven weeks), and he called as witnesses a psychologist that had counseled him and the deputy chief of the county's juvenile facilities division. Based on the probation department's report describing appellant's disruptive conduct in juvenile hall, the court ordered appellant transferred back to county jail pending disposition.

On September 4, the court held the scheduled disposition hearing. The probation department recommended termination of appellant's probation as "unsuccessful." Appellant's counsel had no objection to the recommendation. Following a discussion with appellant and his counsel in open court, the court terminated appellant from probation "unsuccessfully," dismissed the wardship, and directed appellant's immediate release from county jail.

Appellant's appellate counsel has briefed no issues and asks us to independently review the record pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*). Appellant's notice of appeal challenges the August 31 order "housing the ward in an adult facility." However, his request for review of the August 31 order has been rendered moot by his release from custody. (See *Paul v. Milk Depots, Inc.* (1964) 62 Cal.2d 129, 132 [general rule requiring dismissal of appeal when court cannot grant any effectual relief to appellant]; *People v. Strams* (1931) 118 Cal.App.148, 148 [appeal rendered moot by appellant's release from custody].) While we may consider moot issues, no exception to the mootness doctrine requires our review of the juvenile court's fact-driven discretionary decision to transfer appellant from juvenile hall to county jail pending disposition. (See *K.C. v. Superior Court* (2018) 24 Cal.App.5th 1001, 1006, 1008-1009 [section 208.5 permits 18-year-old to be transferred from juvenile hall to county jail pending disposition based on probation department's recommendation and juvenile court order].) Appellant also challenges the September 4 order "terminating wardship as unsuccessful thus not allowing sealing of [his] records." However, his request for review of the September 4 order has been forfeited by his failure to lodge any objections to that order in the juvenile court. (See *People v. Ross* (1994) 28 Cal.App.4th 1151, 1157, fn. 8

[court would not consider “fact-bound inquiry” for first time on appeal because argument was not raised in trial court].)

Based on our examination of the entire record in accordance with *Wende*, we agree with appellate counsel that there are no issues that require further briefing. As required by *People v. Kelly* (2006) 40 Cal.4th 106, 124, we affirmatively note appellate counsel has informed appellant of his right to file a supplemental brief and he has not filed such a brief.

### **DISPOSITION**

The appeal from the August 31, 2018 order is dismissed as moot. The September 4, 2018 order is affirmed.

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Petrou, J.

WE CONCUR:

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Fujisaki, Acting P.J.

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Wiseman, J.\*

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\* Retired Associate Judge of the Court of Appeal, Fifth Appellate District, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution.